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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/961,395	09/25/2001	Harald Jakob	P 265258 000345 PV	5500

909 7590 12/13/2004

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EXAMINER

LISH, PETER J

ART UNIT

PAPER NUMBER

1754

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b>	Application No. 09/961,395	Applicant(s) JAKOB ET AL.	
	Examiner Peter J Lish	Art Unit 1754	

*--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

THE REPLY FILED 19 November 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: the amendment broadens the claims and thereby raises new issues.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see continuation.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-5, 7-9, 11-19.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_.

***Response to Arguments***


Applicant's arguments have been fully considered but they are not persuasive. The applicant argues that the properties of the sodium percarbonate are not taught to be result effective variables and therefore are not subject to optimization. However, it is noted that the properties of the sodium percarbonate product are not relied upon to be result effective variables, rather they are properties of the end product, which are expected to be equivalent to those claimed as no difference is seen between the manner in which the product of the applied references and the product of the applicant is made.

Similarly, the applicant argues that the selection of a particular modulus of the waterglass is not taught to be a result effective variable and therefore is not subject to optimization. However, as discussed in the final rejection, given the fact that different compositions of waterglass are known in the art to have different properties, it is held by the examiner that it would have been obvious to one of ordinary skill to determine, through routine experimentation, which compositions of waterglass provides the desired effects. Additionally, the reference to Bewersdorf '201 teaches that the modulus of the waterglass is a result effective variable.

Applicant additionally argues that the reference to Bewersdorf '201 teaches away from the claimed invention because it teaches that the best waterglass modulus is that of 3.1, whereas the claims limit the range to between 1 and 3. However, it is noted that Bewersdorf '201 teaches a waterglass modulus range of between 1.8 and 3.1, which overlaps with the claimed range. Any additional teaching of '201 cannot be seen to teach away from the range that is taught by '201. Furthermore, regarding applicant's argument that the teaching in Bewersdorf '201 that the waterglass modulus is a result effective variable is with respect to a coating and not the

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incorporation of the waterglass into the body of the percarbonate, it is held that the waterglass of the applicants also appears to be present in a coating of the percarbonate. Moreover, should that not be the case, it is expected that the waterglass in the coating and the waterglass incorporated into the body of the percarbonate provide the same effect.



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